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Forty-eighth session

SUMMARY RECORD OF THE 56th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 5 March 1992, at 3 p.m.

Chairman: Mr. SOLT (Hungary)

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Consideration of the draft resolutions on agenda items 19, 13, 21 and 3 (continued)

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The meeting was called to order at 3.30 p.m.

CONSIDERATION OF THE DRAFT RESOLUTIONS ON AGENDA ITEMS 19, 13, 21 AND 3 (continued) (E/CN.4/1992/L.63, L.65, L.71, L.83/Rev.1, L.60, L.64 and L.88)

Draft resolution E/CN.4/1992/L.63 (agenda item 19)

1. Mr. ARTEAGA (Venezuela), introducing on behalf of its sponsors, the draft resolution on the situation of human rights in Haiti, said that it strongly condemned the overthrow of the constitutionally elected President, Jean-Bertrand Aristide, and the use of violence and the subsequent deterioration of the situation of human rights in that country, and expressed its deep concern over the flagrant human rights violations committed under the illegal Government set up following the coup of 29 September 1991. The purpose of the draft was to draw the attention of the Commission to the fate of the Haitian people after the events that had caused the sudden interruption of the process of democratization which had been launched in Haiti. The draft incorporated certain elements of the resolution adopted on the subject by the General Assembly at its forty-sixth session, as well as of the resolutions adopted by the Organization of American States (OAS) in order to find a solution to the political crisis in Haiti and revive the democratic process with President Aristide's return to power. The draft also took into account the conclusions and recommendations of the independent Expert in his report (E/CN.4/1992/50). In view of the present situation in Haiti, the Chairman was requested in paragraph 6 to appoint a Special Rapporteur of the Commission to prepare a report on the situation for examination by the Commission at its forty-ninth session, under the agenda item entitled "Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories". His delegation hoped that the Commission would adopt the draft resolution by consensus and thus show the international community's determination to ensure respect for democracy, freedom and human rights in Haiti.

2. Mr. MAUTNER-MARKHOF (Secretary of the Commission) announced that the United States, Switzerland and Japan had also decided to sponsor the draft resolution. The estimated expenditure that would be incurred by the activities contemplated in the draft resolution would be US$ 70,200 in 1992 and US$ 13,800 in 1993. Provision had been made for the 1992 and 1993 allocations in the programme budget for the 1992-1993 biennium.

3. Mr. SENE (Senegal) said he had examined the draft resolution with great interest. It recalled the General Assembly resolutions on "The situation of democracy and human rights in Haiti" as well as the unanimous declaration on Haiti adopted by the Permanent Council of the Organization of American States on 22 November 1991, and the subsequent dispatch by the Inter-American Commission on Human Rights of an investigating team. It denounced the critical events which had occurred in Haiti since 29 September 1991 and which had brought about a sudden and violent interruption of the democratic process in the country, the loss of human life, violations of human rights and the mass exodus of Haitians.

4. Such situations showed clearly that democracy required not only the establishment of a State subject to the rule of law, which implied respect for human rights and fundamental freedoms, but also development and the eradication of poverty. In other words, democracy was a matter of mentality and culture but at the same time a political reality. As the cold war had come to an end, therefore, the Commission should do its utmost to promote that culture. The situation in Haiti was in fact due to historical reasons. It should not be forgotten, that the country had been the first colony of black slaves brought from Africa and that it was there that the first black republic had been proclaimed in 1804. Haiti had also provided Simon Bolivar with considerable assistance, which explained the historical links that existed between Haiti and Venezuela, whose representative had introduced the draft resolution under consideration. The four centuries of slavery that the Haitian people had endured constituted the root cause of its present problems. That should be remembered at a time when the world was preparing to commemorate the five hundredth anniversary of the discovery of America and the meeting of two worlds. During his visit to Senegal, His Holiness John Paul II had censured the disregard for human rights represented by slavery, which had inflicted so much suffering on countless human beings. His Holiness had called it a sin of man against man and of man against God - using words that had profound significance in the case of Haiti. The delegation of Senegal had great expectations of the present negotiations for the restoration of the rule of law in that country and had also decided to sponsor the resolution.

5. Mr. PORTALES (Chile) said that he fully endorsed the comments made by the representative of Venezuela in introducing draft resolution E/CN.4/1992/L.63. The delegation of Chile was also very concerned about the serious violations of human rights perpetrated in Haiti after the coup of September 1991, as described in the reports of the independent Expert, Mr. Bruni Celli, the principal non-governmental organizations for the protection of human rights and the Inter-American Commission on Human Rights. His delegation was all the more concerned as those events infringed the Haitian people's right to self-determination, which had been freely exercised in the December 1990 elections that had brought Jean-Bertrand Aristide to power. The Latin American States, which had firmly committed themselves to democracy at the OAS General Assembly in June 1991, would not remain indifferent to attempts to overthrow the democratic systems in the region, and would actively support peoples whose fundamental political rights were being violated. The commitment to democracy was based on the idea that democracy was the only way to ensure respect for political rights, in other words the right freely to elect the representatives of the people and the right to freedom of expression, assembly and association, and that inasmuch as the political system determined the social system, the effective exercise of democratic political rights was indispensable to respect for all fundamental human rights.

6. Draft resolution E/CN.4/1992/L.63 was adopted without a vote.

Draft resolution E/CN.4/1992/L.65 (agenda item 19)

7. Mr. NOVILLO (Argentina) introduced the draft resolution on assistance to Guatemala in the field of human rights on behalf of the sponsors. Having considered the report of the independent Expert, Mr. Christian Tomuschat (E/CN.4/1992/5), and studied his conclusions and recommendations, the sponsors

of the draft resolution were deeply disturbed by the persistence of serious human rights violations in Guatemala. Nevertheless, note should be taken of the legal and institutional reforms introduced by the Government of Guatemala, with a view to combating the impunity of the perpetrators of those violations and to guaranteeing full respect for human rights and fundamental freedoms. Particularly noteworthy was the Government's demonstration of political will in appointing persons committed to the observance of human rights as officials responsible for human rights policy and the security forces, and by the penalties imposed on those responsible for human rights violations. The major significance of the Mexico Agreement of April 1991 between the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca should also be recognized. However, it was necessary to continue to observe the situation in the country, through advisory services and to support the efforts of the new Government in the area in question. He hoped that the Commission would adopt the draft resolution under consideration.

8. Mr. MAUTNER-MARKHOF (Secretary of the Commission) explaining the financial implications of draft resolution E/CN.4/1992/L.65 and its impact on the programme budget, said that the estimated expenditure entailed by the extension of the independent Expert's mandate would be US$ 75,900 in 1992 and US$ 14,200 in 1993. Provision had been made for the 1992 and 1993 allocations in the programme budget for the 1992-1993 biennium.

9. Draft resolution E/CN.4/1992/L.65 was adopted without a vote.

Draft resolution E/CN.4/1992/L.71 (agenda item 19)

10. Mr. RODRIGUEZ (Costa Rica), introducing the draft resolution on the situation in Equatorial Guinea on behalf of Colombia, Peru and his own country, said it took note of the suggestions and proposals made by the Expert on Equatorial Guinea in his report (E/CN.4/1992/51). In the draft, the Commission expressed its concern at the persistence of the human rights violations in Equatorial Guinea, deplored the serious deterioration of the human rights situation in the country, and called upon the Government to take the necessary measures to restore freedom, democracy and respect for human rights throughout the country and for all the citizens of Equatorial Guinea. Lastly, it invited the Government to implement the democratic reforms recommended by the Commission's Expert with a view to establishing the bases for a democratic process in Equatorial Guinea.

11. After lengthy consultations, the sponsors had agreed to reword paragraph 18 to read:

> "Decides to consider the question at its forty-ninth session under the item 'Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories' unless there is a significant improvement in the situation of human rights and fundamental freedoms in Equatorial Guinea".

His delegation hoped that the Commission would adopt the draft resolution without a vote.

12. Mr. MAUTNER-MARKHOF (Secretary of the Commission) informed the Commission that Argentina was not a sponsor of draft resolution E/CN.4/1992/L.71. He said that the estimated expenditure that would be incurred by the activities contemplated in the draft resolution was US$ 80,300 in 1992 and US$ 17,600 in 1993. Provision for the 1992 and 1993 allocations had been made in the programme budget for the 1992-1993 biennium.

13. Mr. OMAR (Libyan Arab Jamahiriya) said he had been surprised by the submission of that draft resolution, since neither his delegation nor any other African delegation had been consulted about it. Besides, the wording of the draft lacked balance because no mention was made of the position of the Government of Equatorial Guinea regarding the situation in the country. Paragraph 4 of the draft stated that, although the Government of Equatorial Guinea approved the Plan of Action prepared by the Expert in 1980, it had never implemented it. Yet no one knew whether any contact had been established with the Government in order to find out what it thought of the Plan. In other words, the Commission was being asked to take certain measures without being told what was the basis for them. And the sponsors' amendment to paragraph 18, merely confirmed the doubts created by the draft. The Libyan delegation was not trying to defend the Government of Equatorial Guinea but simply wanted to draw the Commission's attention to the fact that certain procedures and working methods had to be respected and that it could not adopt a draft resolution about a particular country without ascertaining the views of its Government.

14. Mr. RODRIGUEZ (Costa Rica), replying to the Libyan representative, said that draft resolution E/CN.4/1992/L.71 had been circulated to members of the Commission several days previously. Furthermore, when his country had spoken on the agenda item 19 in support of Mr. Volio Jiménez's report (E/CN.4/1992/51), the Observer for Equatorial Guinea had asked him for a copy of the draft, studied it and had made no comment.

15. Mr. ENGONGA MOTULU (Observer for Equatorial Guinea) said that Equatorial Guinea categorically denied the allegations made in Mr. Volio Jiménez's report. His delegation had already had occasion to speak about the major changes that had taken place in the country since the beginning of 1992, but the draft resolution made no reference whatever to them. Equatorial Guinea therefore hoped that the draft resolution would be withdrawn because it did not reflect the true situation.

16. Draft resolution E/CN.4/1992/L.71 was adopted without a vote.

Draft resolution E/CN.4/1992/L.83/Rev.1 (agenda item 19)

17. Mr. SCHUTTE (Germany), introducing the draft resolution on behalf of its sponsors, observed that it was based on resolutions 1991/49 and 1991/50 which dealt respectively with advisory services and the Voluntary Fund for Technical Cooperation in the Field of Human Rights. The sponsors had covered those two subjects in a single text, not only in order to streamline the work of the Commission but also because they felt that, although a clear distinction should be made between projects financed by contributions from the Voluntary Fund and those financed under the regular budget, both types of projects had to be seen in a common context. Section A of the operative part dealt with

activities under the regular budget of the United Nations; Section B covered activities under the Voluntary Fund, and Section C was devoted to the question of system-wide cooperation. In the draft resolution, the Commission welcomed in particular the increasing number of requests from Governments for support and technical assistance and encouraged cooperation between the Centre for Human Rights and other United Nations bodies. The sponsors hoped that the administrative measures recently adopted by the Centre would contribute to a further improvement in the administration and operation of the Voluntary Fund and that the draft resolution would be adopted without a vote.

18. Mr. HESSEL (France) thanked the German delegation for the excellent work it had done in drafting the revised version of the draft resolution and welcomed the fact that the text had very clearly charted the course to be followed, especially in operative paragraph 22, where the Secretary-General was requested to continue examining ways and means to improve further the administration and operation of the Voluntary Fund. His delegation was convinced that, from the forty-ninth session of the Commission, the Secretary-General would take into consideration all the interesting proposals that had been formulated on the subject, especially those on the establishment of a board of directors of the Fund or the implementation of the recommendations of the various rapporteurs, experts or non-governmental organizations dealing with human rights. His delegation hoped that the draft would be adopted without a vote.

19. Mr. NTEZIRIBA (Burundi) said he would withdraw his request for the deletion of paragraphs 21 and 22 of the draft resolution on the understanding that the Secretary-General would, at the Commission's forty-ninth session, submit specific proposals aimed at increasing the effectiveness of the advisory services and the administration of the Voluntary Fund, and for the establishment of a board of directors to manage the Fund, the board's membership reflecting equitable geographical distribution.

20. Mr. KOLANE (Lesotho), noting that his country was not only one of the sponsors of the draft but also benefited directly from the advisory services in question, hoped that it would be adopted by consensus.

21. Draft resolution E/CN.4/1992/L.83/Rev.1 was adopted without a vote.

22. Mr. CABRAL (Portugal), speaking on behalf of the members of the European Community which were members of the Commission, explained their vote on resolution E/CN.4/1992/L.65 concerning assistance to Guatemala in the field of human rights. The members of the European Community felt, as they had already said, that the question of human rights in Guatemala should have been dealt with under agenda item 12. Furthermore, some of the paragraphs of the draft resolution could have been drafted so as to reflect better the content of Mr. Tomuschat's report on the situation of human rights in Guatemala (E/CN.4/1992/5). The members of the European Community urged all the parties concerned, including the Guatemalan Government, to endeavour to improve the human rights situation in the country. It was only on that condition that the Commission could, at its next session, contemplate limiting its action to technical assistance programmes for Guatemala.

23. Mr. OMAR (Libyan Arab Jamahiriya), explaining Libya's position on resolution E/CN.4/1992/L.71, said that, for the reasons he had already given, his country would have abstained had a vote been taken on the draft.

24. Ms. BALKAN (Canada), speaking in explanation of her country's vote on resolution E/CN.4/1992/L.65, said that Canada would have preferred the question of human rights in Guatemala to have been considered under agenda item 12. Canada welcomed the fact that Mr. Tomuschat's mandate had been renewed and that President Serrano had recognized that the human rights situation in the country had to be improved. Canada hoped that a real improvement would be achieved before the Commission's next session.

25. Ms. PONTICELLI (United States), speaking in explanation of her country's vote on resolution E/CN.4/1992/L.83/Rev.1, said that while the United States supported the basic points of the resolution, it wished to emphasize once again that advisory services should be financed from the Voluntary Fund and not by the regular budget.

26. Mr. SENE (Senegal), speaking in explanation of his country's vote on resolution E/CN.4/1992/L.71, noted that the Government of Equatorial Guinea had recently undertaken major reforms which were not mentioned in Mr. Volio Jiménez's report. He hoped that reforms intended to advance the democratization process would continue and that the expert appointed by the Commission would be able to provide additional information.

27. Ms. RUESTA DE FURTER (Venezuela), speaking in explanation of her country's vote on resolution E/CN.4/1992/L.83/Rev.1, said that Venezuela had joined the consensus on the understanding that paragraph 22 was interpreted in the manner indicated by the representative of Burundi.

Draft resolution E/CN.4/1992/L.60 (agenda item 13)

28. Ms. PAZ (Mexico), introducing the draft resolution entitled "International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families" on behalf of the sponsors, said that the Convention was the result of 10 years of negotiations. Its aim was to protect the rights of one of the most vulnerable groups in society, whose condition, given the dynamics of international relations today and the increase in migratory movements, was tending to get worse.

29. The draft resolution urged Member States of the United Nations to ratify or accede to the Convention and expressed the hope that it would enter into force at an early date. It also requested the Secretary-General to promote the Convention, in particular through the World Public Information Campaign for Human Rights and the programme of advisory services, and invited United Nations agencies and organizations, as well as intergovernmental and non-governmental organizations, to ensure the dissemination of information on the Convention and to promote understanding thereof. Lastly, it decided to include in the agenda of the Commission's forty-ninth session an item entitled "Measures to improve the situation and ensure the human rights and dignity of all migrant workers". The sponsors hoped that the draft resolution would be adopted by consensus.

30. Mr. MAUTNER-MARKHOF (Secretary of the Commission) said that Sao Tome and Principe and Tunisia had decided to become sponsors of the draft resolution.

31. Draft resolution E/CN.4/1992/L.60 was adopted without a vote.

32. The CHAIRMAN invited those members of the Commission who wished to do so to give their explanations of vote after the vote.

33. Mr. DAVIS (United States of America) said that his delegation had joined the consensus because his country strongly supported the protection of the rights of migrant workers. Nevertheless, the United States Government felt that the International Labour Organisation (ILO) was the appropriate body to work for the implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Their Families, particularly since the Convention had been adopted by the General Assembly.

34. Mr. SEZAKI (Japan) said that, although Japan had joined the consensus, he wished to reiterate the reservations his Government had made when the Convention had been adopted by the General Assembly.

Draft resolution E/CN.4/1992/L.64 (agenda item 21)

35. Mr. BARKER (Australia), speaking on behalf of the sponsors, introduced the draft resolution on the question of a draft declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms. Since the Working Group to draft the declaration had been established in 1984, the Commission had taken note of its report each year. The Working Group had made good progress during the last two sessions and the completion of its work was in sight. The draft resolution stated that the Working Group should be given sufficient meeting time to enable it to submit the draft declaration to the Commission at its forty-ninth session. It also requested the Secretary-General to circulate its report to Governments and to interested intergovernmental and non-governmental organizations and to undertake a technical review of the text. Following consultations with the delegation of China and with the Secretariat, a number of corrections would be made to paragraph 98 of the Working Group's report (E/CN.4/1992/53), and would be included in a corrigendum. His delegation hoped that the draft resolution would be adopted by consensus.

36. Mr. MAUTNER-MARKHOF (Secretary of the Commission) said that Sweden and the United States had also become sponsors of the resolution. Regarding its financial implications, he said that the estimated expenditure connected with its implementation was $148,700 for 1993, in other words an amount corresponding to the cost of the conference services required by the Working Group's meetings before the forty-ninth session of the Commission. That amount would be drawn from the reserves provided for 1993 in the programme budget for the 1992/93 biennium.

37. The CHAIRMAN asked whether delegations wished to make any general comments.

38. Mr. ALFONSO MARTINEZ (Cuba) thanked the sponsors of the draft resolution, and said that his delegation had participated in the work of the Working Group responsible for preparing the draft declaration. Like the representative of Australia, his delegation thought that the Group's work was coming to a close and that the Commission could have a draft declaration before it at its next session. However, a number of thorny issues had yet to be settled, such as the possibility of external financing by the groups and institutions concerned and the question of the duties of individuals, groups and institutions towards the society into which they were integrated. In that connection, he stressed the importance of paragraph 5 of the draft resolution in which Governments and interested intergovernmental and non-governmental organizations were invited to submit written comments on the first reading text for consideration by the Working Group at its next session; he hoped that many replies would be received and expressed his support for the draft resolution.

39. Mr. KESSEL (Canada) and Mr. WIELAND (Peru) said that their countries had also become sponsors of the draft resolution.

40. Draft resolution E/CN.4/1992/L.64 was adopted without a vote.

Draft decision E/CN.4/1992/L.88 (agenda item 3)

41. The CHAIRMAN invited members of the Commission to adopt by consensus draft decision E/CN.4/1992/L.88 which he was submitting to them for approval. All the regional groups had been consulted and it had been approved on their behalf by the officers of the Commission.

42. Draft decision E/CN.4/1992/L.88 was adopted without a vote.

43. Mr. ALFONSO MARTINEZ (Cuba) asked the Chairman how far current consultations regarding the possible rearrangement of the Commission's agenda had advanced.

44. The CHAIRMAN said that the officers of the Commission would meet to consider the matter and that, if necessary, a draft resolution on the rearrangement of the agenda would be submitted to the members of the Commission at the next meeting.

The meeting rose at 4.45 p.m.